IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO.87 OF 2004

Dr.M.K.Ramakrishna .. Petitioner.
Vs.
S.P.S.Jain & Anr. .. Respondents
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Shri G.K.Masand for Smt.S.D.Gulhane for the petitioner.
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CORAM : R.M.S.KHANDEPARKAR, J

DATED : 21st December, 2004.

P.C.

1. Heard. The grievance of the petitioner is that the Central Administrative Tribunal by its order dated 11th December, 2001 had directed the respondents to consider the application of the petitioner for leave/deputation and for that purpose, had further observed that the petitioner may apply for deputation for such period within one month of the receipt of the copy of the order and that the respondents should decide the same as per the extent rules within a period of 3 months ignoring the fact that he has not applied well in advance, keeping in view the deputation sanctioned to Dr.S.A.Nazmiar, Dr.P.K.Sharma and 1999 SCC (L&S) 1171 State of Punjab and Ors. vs. Dr.Rajeev Sarwal. The said order was sought to challenge by the respondents by way of Writ Petition No.6776 of 2002, which came to be disposed of observing that the order was assailed on the ground

that the rule did not permit deputation and in those circumstances, the Union of India was required to decide the representation made by the respondent Dr.Sitaram Dhande as directed by the Tribunal and the same was required to be done within two months from the date of the order which was passed by this Court on 28th November, 2002. The grievance of the petitioner is that though the representation of the petitioner has been disposed of, the same has not been disposed of in the light of the order passed by the Tribunal and the specific directions therein which were not interfered with by this Court, and on the contrary, there was a specific direction to dispose of the representation within the specified time.

2. Attention is drawn to the order passed by the respondents pursuant to the said direction wherein it has been observed that "secondly as per the details provided by you in respect of Dr.S.A.Nazmi of S.E.Rly and Dr.R.K.Samanta of S.E.Rly, they were sanctioned deputation for undergoing the P.G.course in MD (Pathology) and Psychiatry respectively. Both these courses are covered under provisions contained in Indian Railway Medical Manual." The contention of the learned advocate for the petitioner is that the expression "keeping in view the deputation sanctioned

to ....." with reference to Dr.S.A.Nazmiar, Dr.P.K.Sharma and further the decision of the Apex Court in the State of Punjab and Ors. v. Dr.Rajeev Sarwal, in the order passed by the Tribunal clearly required the respondents to decide the matter considering the representation in the same manner as it was considered in the case of Dr.Nazmiar and Dr.Sharma. Plain reading of the order passed by the Tribunal, undoubtedly, discloses that the decision was required to be taken by the respondents keeping in view the deputation which was sanctioned to Dr.Nazmiar and Dr.Sharma and bearing in mind the law laid down by the Apex Court in Rajeev Sarwal's case. That does not mean that the representation of the petitioner was necessarily required to be disposed of with a favourable relief to the petitioner. Undoubtedly, it was required to be disposed of by keeping in view the order passed in relation to the request made by the Dr.Nazmiar and Dr.Sharma and the sanction granted to them. In case the order passed by the Respondents is not in accordance with the provisions of law, certainly the remedy to the petitioner lies somewhere else but it cannot be a case for proceedings under Contempt of Courts Act.

3. Being so, there is no case for proceeding

against the respondents for contempt of Court and therefore, the petition is rejected.